

REMARKS

Reconsideration and withdrawal of the examiner's objections and rejections under 35 U.S.C. §§ 102(b) and 103(a) is respectfully requested in view of the following remarks. The applicant would like to thank the examiner for her time and kind cooperation in this matter.

35 USC § 102(b)

The examiner has rejected claims 1, 3, 5-6, 9 and 11-13 under 35 U.S.C. 103(b) [sic 102(b)] as being anticipated by Farrell, et al., (US 6,063,390), issued May 16, 2000, as evidenced by ChemBrief (Optigel SH Synthetic Silicate, June 2003, Vol. 3, Iss. 2). Applicants respectfully traverse this rejection.

The examiner asserts that Farrell, et al., teach an effervescent cleansing composition which comprises a mixture of an acid material such as citric acid and an alkaline material such as sodium bicarbonate (abstract). Water contact causes the combination to effervesce (abstract). The alkaline material is a substance which can generate a gas such as carbon dioxide when contacted with water and the acidic material (column 2, lines 19-23). In one embodiment, Farrell, et al., teach a composition comprising potassium bicarbonate, lactic acid (satisfying claim 1a, 1b, 1d and 1f), sodium sulfosuccinate present at 11.6% by weight (satisfying claim 1e) and Optigel SH (sodium magnesium silicate) (satisfying claim 1c and e) (Table IV).

In response, applicants respectfully assert that a proper prima facie case is not set forth because Farrell, et al., and ChemBrief fail to disclose or suggest at least the following independent elements:

- 1 (b). a continuous phase present in the composition composed of a substantially anhydrous carrier; and
- 1 (c). an organophilic particle stabilizer contained in the dispersed phase;

Farrell discloses a simple powder blend of reactive components in a substantially anhydrous condition which is different from the claimed continuous phase containing a dispersed phase. The skilled person would understand that a continuous phase is a liquid part of a disperse system that also contains a dispersed phase. The dispersed phase could be either a liquid or a solid (see McGraw Hill Dictionary definition attached). This is also exemplified in the examples in the instant specification (see tables 1-9 regarding the elected invention). Applicants respectfully submit that this definition should be considered by the examiner as the broadest reasonable interpretation "In light of the specification as it would be interpreted by one of ordinary skill in the art". In re Am. Acad. of Sci. Tech. Ctr., 367 F.3d 1359, 1364 (Fed. Cir. 2004). See also MPEP 2111. Since neither reference contains all the elements of the independent claim by itself, there is no prima facie case under § 102(b).

35 USC § 103(a)

The examiner has rejected claims 1, 3-6, 9, 11-14 and 16 under 35 U.S.C. 103(a) as being unpatentable over Farrell, et al., (US 6,063,390), issued May 16, 2000, as evidenced by ChemBrief (Optigel SH Synthetic Silicate, June 2003, Vol. 3, Iss. 2). Applicants respectfully traverse this rejection.

Farrell, et al., teaches that the blend must be an anhydrous dry powder ostensibly to avoid any premature reaction prior to the user applying the later wetted wiping article to the skin (col. 1, lines 40-41). Aside from the fact that a proper prima facie case is not set forth, Farrell, et al., teaches away from reducing the degree of intimate contact of the dry reactive materials (cf. first and second components) by suspending them in the anhydrous carrier required in instant claim 1(a) and (b) because Farrell teaches that the desired result of the rapid effervescence created by the intimate blend being contacted with water is the production of "copious" lather. In other words, the skilled person would not have been motivated to reduce the intimate contact of the dry powder in Farrell, et al., by suspending such powder in an inert medium (i.e., a "substantially anhydrous carrier" claimed in 1(b)).

Lastly, applicants respectfully submit that prior art stabilizers such as ChemBrief SH Synthetic Silicate (sodium magnesium silicate) fail to anticipate claim limitation 1(c) because such compound fails to meet the limitation of "organophilic particle" as would be evident to the person of ordinary skill in the art ("POSITA"). Silicates are known by the POSITA to be attracted to or solvated by polar materials/solvents such as water in contrast to organophilic particles which are attracted to or solvated by nonpolar materials/solvents (see mediLexicon.com dictionary definitions attached of organophilic and organophilicity). Nonlimiting examples of inventive organophilic particles are described in the instant specification on page 13, line 33 to page 14, line 5 and include e.g., organophobically modified clays.

The examiner further asserts that ChemBrief teaches sodium magnesium silicate is dispersible (not solvated) in water, and that such dispersibility results due to the small size of platelets (as opposed to any chemical modification creating an organophilic particle) and that sodium magnesium silicate forms lamellar surfactant phases upon contact with water at ambient temperature just as defined in instant claim 12.

In response, applicants respectfully submit that neither the small size of platelets nor the ability to form lamellar phase are relevant to organophilicity. Furthermore, applicants have been unable to find any reference to organophilicity in the ChemBrief reference which is required by the instant claims. The examiner also provides no reason why a POSITA would consider the silicates described in the ChemBrief article to have organophilic character. Therefore, applicants respectfully reiterate that the ChemBrief article fails to remedy the deficiencies of Farrell, et al., with respect to setting forth a proper prima facie case under §§ 102(b) and 103(a) for claims 1, 3-6, 9 and 11-16.

The examiner has rejected claim 15 under 35 U.S.C. 103(a) as being unpatentable over Farrell, et al., (US 6,063,390), issued May 16, 2000, as evidenced by ChemBrief (Optigel SH Synthetic Silicate, June 2003, Vol. 3, Iss. 2) as applied to claims 1, 3-6, 9, 11-14 and 16 above, and further in view of Sun, et al. (US 2004/0062735) published April 1, 2004. Applicants respectfully traverse this rejection.

The examiner asserts that Sun, et al., teach a dry article comprising an insoluble substrate, at least one oxidizing agent and at least one reducing agent, wherein the suitable oxidizing agents include alkaline metal salts and the reducing agents include sulfides and sulfites (column 4, line 40 – column 5, line 22).

Sun relates to a composition or article containing at least one oxidizing agent and at least one reducing agent, wherein at least one of the at least one reducing agent is a depilatory agent, the equivalent ratio of the at least one oxidizing agent to the at least one reducing agent is less than 1:1, and the article is exothermic when wet with water, and the use thereof to remove hair from the skin (see abstract).

Applicants respectfully submit that Sun, et al., fails to remedy the deficiencies of Farrell, et al., and ChemBrief with regards to claim 15 which depends from claim 1.

continuous function of the deviation. { kan'tin'yo-was 'funktshn }

continuous countercurrent leaching [CHEM ENG] Process leaching by the use of continuous equipment in which the solid and liquid are both moved mechanically, and by the use of a series of leach tanks and the countercurrent flow of solvent through the tanks in reverse order to the flow of solid. { kan'tin'yo-was 'kaint-er/kar-ent 'lechiŋ }

continuous deformation [MATH] A transformation of an object that magnifies, shrinks, rotates, or translates portions of the object in any manner without tearing. { kan'tin'yo-was ,de-forma'shen }

continuous distillation [CHEM ENG] Separation by boiling a liquid mixture with different component boiling points; feed introduced continuously, with continuous removal of overhead vapors and high-boiling bottoms liquids. { kan'tin'yo-was ,disto'li-shen }

continuous distribution [STAT] Distribution of a continuous variable, which is a class of pairs such that the second member of each pair is a value, and the first member of the pair is a probability density for that value. { kan'tin'yo-was ,distro'bytsiŋ }

continuous dryer [ENG] An apparatus in which drying is accomplished by passing wet material through without interruption. { kan'tin'yo-was 'drai-er }

continuous-duty rating [ELEC] The rating that defines the load which can be carried for an indefinite time without exceeding a specified temperature rise. { kan'tin'yo-was ,didi-é 'rád-ŋg }

continuous dyeing [TEXT] The application of color-producing agents to textiles by impregnating the cloth with dye and passing it through a series of developing, washing, and drying zones to a final take-up roll. { kan'tin'yo-was 'driŋ }

continuous equilibrium vaporization See equilibrium flash vaporization. { kan'tin'yo-was ,ékwilibrits-əm vāpə'zā-izātsiŋ }

continuous extension [MATH] A continuous function which maps a set into another continuous function defined on a smaller set. { kan'tin'yo-was ik'sten'shen }

continuous filament [TEXT] A long, continuous strand of a manufactured fiber as distinguished from all natural fibers (except silk), which are of short staple or length. { kan'tin'yo-was 'fil-ə-mənt }

continuous film scanner [ELECTR] A television film scanner in which the motion picture film moves continuously while being scanned by a flying-spot kinescope. { kan'tin'yo-was 'film skan-er }

continuous fire [ORD] 1. Fire conducted at a normal rate without interruption, for application of adjustment corrections in other cases. 2. In field artillery, a succession of salvos, rounds being fired consecutively at the interval designated by the commander. { kan'tin'yo-was 'fir }

continuous-flow conveyor [MECH ENG] A totally enclosed, trough-belt conveyor pulled transversely through a mass of material, powdered or small-lump material fed from an overhead hopper. { kan'tin'yo-was ,floo kən'vei-er }

continuous flowmeter log [PETRO ENG] A record of surveys which record changes in the flow pattern of production zones and detection of changes in conditions at the surface, in time, in operation, or after stimulation treatments. { kan'tin'yo-was ,floo-mē-tə-r ,lɔg }

continuous footing [CIV ENG] A footing that supports a wall. { kan'tin'yo-was 'fud-iŋ }

continuous forms [COMPUT SCI] 1. In character recognition, each of source information that exists in reel form, such as bills or cash-register receipts. 2. Preprinted forms that are printed on each page, with the bottom of one page joined to the top of the next by a perforated attachment, so that they can be torn out one at a time. { kan'tin'yo-was 'fɔrmz }

continuous function [MATH] A function which is continuous at every point of its domain. Also known as continuous transformation. { kan'tin'yo-was 'fankshn }

continuous furnace [MST] A type of reheating furnace in which the charge introduced at one end moves continuously through the furnace and is discharged at the other end. { kan'tin'yo-was 'fərnəs }

continuous gas lift [PETRO ENG] Oil production in which the gas pressure (natural or injected) is sufficient to pro-

vide a continuous upward flow of oil through the well tubing. { kan'tin'yo-was 'gas ,lift }

continuous geometry [MATH] A generalization of projective geometry. { kan'tin'yo-was jé'jé-ō-mē-tri }

continuous image [MATH] The image of a set under a continuous function. { kan'tin'yo-was 'imɪdʒ }

continuous industry [IND ENG] An industry in which raw material is subjected to successive operations, turning it into a finished product. { kan'tin'yo-was 'indəs-tri }

continuous kiln [ENG] 1. A long kiln through which ware travels on a moving device, such as a conveyor. 2. A kiln through which the fire travels progressively. { kan'tin'yo-was 'kiln }

continuous leader See dart leader. { kan'tin'yo-was 'līd-er }

continuous loading [ELEC] Loading in which the added inductance is distributed uniformly along a line by wrapping magnetic material around each conductor. { kan'tin'yo-was 'lōd-iŋ }

continuously adjustable transformer See variable transformer. { kan'tin'yo-was 'a'jəstə-bəl tranz'fɔrm-er }

continuous mill [MST] A rolling mill in which metal is successively rolled thinner as it passes through a series of synchronized rolls in tandem. { kan'tin'yo-was 'mil }

continuous miner [MIN ENG] Machine designed to remove coal or other soft minerals from the face and to load it into cars or conveyors continuously, without the use of cutting machines, drills, or explosives. { kan'tin'yo-was 'mīn-er }

continuous mining [MIN ENG] A type of mining in which the continuous miner cuts or rips coal or other soft minerals from the face and loads it in a continuous operation. { kan'tin'yo-was 'mīniŋ }

continuous mixer [MECH ENG] A mixer in which materials are introduced, mixed, and discharged in a continuous flow. { kan'tin'yo-was 'mik-sər }

continuous operation [ENG] A process that operates on a continuous flow (materials or time) basis, in contrast to batch, intermittent, or sequenced operations. { kan'tin'yo-was əp-ə'rei-shn }

continuous operator [MATH] A linear transformation of Banach spaces which is continuous with respect to their topologies. { kan'tin'yo-was 'əp-ə'rei-tɔr }

continuous permafrost zone [GEOL] Regional zone predominantly underlain by permanently frozen subsoil that is not interrupted by pockets of unfrozen ground. { kan'tin'yo-was 'pərmə'frɔst ,zɔn }

continuous phase [CHEM] The liquid in a disperse system in which solids are suspended or droplets of another liquid are dispersed. Also known as dispersion medium, external phase. { kan'tin'yo-was 'fāz }

continuous population [STAT] A population in which a random variable is measuring a continuous characteristic. { kan'tin'yo-was ,pləp'yə'li-shn }

continuous precipitation [MET] Precipitation that is characteristic of certain alloys, from a supersaturated solid solution, involving a gradual change of the lattice parameter of the matrix with aging time. { kan'tin'yo-was prə'sip-ə'ti-shn }

continuous production [IND ENG] Manufacture of products, such as chemicals or paper, involving a sequence of processes performed by a series of machines receiving the materials through a closed channel of flow. { kan'tin'yo-was prə'dak-shn }

continuous profiling [GEOL] A method of shooting in seismic exploration in which uniformly placed seismometer stations along a line are shot from holes spaced along the same line so that each hole records seismic ray paths geometrically identical with those from adjacent holes. { kan'tin'yo-was 'prɔ'filiŋ }

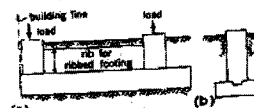
continuous radiation [ELECTROMAG] Electromagnetic radiation that includes all the wavelengths in some interval. Also known as white radiation. { kan'tin'yo-was ,rādi-é'shen }

continuous radio beacon [NAV] A single marine radio beacon operating on a frequency without interruption; used specifically with automatic direction finders. { kan'tin'yo-was 'rādi-é's ,bē-kən }

continuous-rail frog [ENG] A metal fitting that holds continuous welded rail sections to railroad ties. { kan'tin'yo-was 'frɔg }

continuous rating [ENG] The rating which defines the continuous load which defines the safe operating condition of a machine.

CONTINUOUS FOOTING



Two types of continuous footings: (a) Cantilever and (b) Wall footing.

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organophilicity

Type: Term

Pronunciation: ɔr'gā-nō-fī-'sī-tē

Definitions:

1. Attraction of nonpolar substances (organic molecules) to each other.

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organophilic

Type: Term

Pronunciation: ɔːrˈɡæ-nō-fil'ik

Definitions:

1. Pertaining to organophilicity.

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CONCLUSION

In light of the above remarks, applicants submit that all claims now pending in the present application are in condition for allowance. Reconsideration and allowance of the application is respectfully requested. The examiner is invited to contact the undersigned if there are any questions concerning the case.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Alan A. Bornstein", written over a horizontal line.

Alan A. Bornstein
Registration No. 40,919
Attorney for Applicant(s)

AAB/ss
(201) 894-2180